

Title 12 – DEPARTMENT OF REVENUE
DIVISION 10 – Director of Revenue
Chapter 111 - Sales/Use Tax–Machinery and Equipment Exemptions

12 CSR 10-111.020 Air Pollution Exemption

PURPOSE: Section 144.030.2(14), RSMo, exempts machinery, equipment, appliances and devices purchased or leased and used solely for preventing, abating or monitoring air pollution, and materials and supplies solely required for installation, construction or reconstruction of such machinery, equipment appliances and devices. This rule explains what elements must be met in order to qualify for the exemption.

(1) In general, machinery, equipment, appliances and devices purchased or leased and used solely for preventing, abating or monitoring air pollution, and materials and supplies solely required for installation, construction or reconstruction of such machinery, equipment appliances and devices are exempt from **sales and use** tax.

(2) Definitions.

(A) Air pollution—(1) The presence in the ambient air of one (1) or more air contaminants in quantities; (2) the characteristics and of a duration which directly and proximately endangers health or causes or contributes to injury to human, plant or animal life or health, or to property; or (3) which unreasonably interferes with the enjoyment of life or use of property.

(3) Basic Application.

(A) The machinery, equipment, appliances and devices purchased or leased must be used solely for the purpose of preventing, abating or monitoring air pollution. Equipment, appliances or devices used for any other use in addition to preventing, abating or monitoring air pollution do not qualify for the exemption. Materials and supplies must be required solely for the installation, construction or reconstruction of such machinery, equipment, appliances and devices to qualify for exemption.

(B) The exemption can apply to machinery, equipment, appliances and devices when used on a motor vehicle if:

(1)The machinery, equipment, appliance and device removes or captures air pollutants from a system or process, or it monitors the levels of the pollutant; and its function within the system or process is limited to removing, capturing, or monitoring air pollution;

(2) The machinery, equipment, appliance and device is a portion or all of a system or process pretreating air prior to its discharge into the atmosphere; and

(3) Materials and supplies required for the installation, construction or reconstruction of items in subparagraph (3)(B)(1) and not used for other functions.

(C) The following motor vehicle parts are air pollution control devices and/or appliances that qualify for exemption:

- (1) Air injection parts;
- (2) Air pump check valve;
- (3) Catalytic converters (universal converters, direct fit converters, converter kits);
- (4) Exhaust gas recirculation (EGR) valves;
- (5) Evaporative canister and canister purge valve; and
- (6) Positive crankcase ventilation (PCV) valves; and G. Smog pumps.

(D) For motor vehicles, exemption is only for the purchase **for installation and/or** replacement **of** pollution control devices and/or appliances. Pollution control devices and/or appliances **already** existing **on** motor vehicles when purchased new or used are not exempt.

(E) Prior to August 28, 2008, a person purchasing air pollution control equipment pursuant to section 144.030.2(14), **RSMo** must obtain certification from the Department of Natural Resources in order to purchase the equipment exempt from **sales and use** tax. On or after August 28, 2008, certification by the Department of Natural Resources is no longer required to qualify for the exemption.

(4) Examples

(A) A contractor is installing air pollution control equipment and submits an application to the Department of Natural Resources on August 15, 2008. The Department of Natural Resources will review and certify the equipment as a part of its review process. The same contractor receives a contract to install air pollution control equipment on August 29, 2008. The contractor does not need to submit an application to purchase the equipment exempt from **sales and use** tax.

(B) A contractor is installing air pollution control equipment at a manufacturing plant that includes equipment that captures pollutants from its manufacturing process. As a part of the installation, the contractor is also installing equipment that monitors and provides information to the manufacturer concerning the efficiency of the pollution control devices. The purchase of the air pollution control equipment and the monitoring equipment is not subject to **sales and use** tax.

(C) An automobile repair shop is installing a new HVAC system. The HVAC system includes filters to capture exhaust. The filter qualifies for the air pollution

control exemption because its purpose is solely to prevent the exhaust from entering the atmosphere. The HVAC system does not qualify because its purpose is not solely to prevent the exhaust from entering the atmosphere.

(D) A contractor is installing air pollution control equipment at a manufacturing plant that includes equipment that captures pollutants from its manufacturing process. The contractor rents a crane to assist in installing the air pollution control equipment. The rental of the crane does not qualify for the exemption because it is not a material or supply required for installation of the air pollution control equipment.

AUTHORITY: sections 144.030.2(14), RSMo 2007; 643.050, RSMo 2000.
Original rule filed Dec. 13, 1996, effective July 30, 1997. Amended: Filed May 24, 2002, effective March 30, 2003.*

Original authority: **Section 643.050, RSMo 1965, amended 1972, 1992, 1993, 1995*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing scheduled.